

109TH CONGRESS
1ST SESSION

H. R. 512

To require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2005

Mr. POMBO introduced the following bill; which was referred to the Committee on Resources

A BILL

To require the prompt review by the Secretary of the Interior of the longstanding petitions for Federal recognition of certain Indian tribes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROMPT CONSIDERATION OF CERTAIN PETI-**
4 **TIONS REQUESTING FEDERAL RECOGNITION**
5 **AS AN INDIAN TRIBE.**

6 (a) TIME PERIOD FOR PROPOSED FINDING.—Not
7 later than 6 months after the date of the enactment of
8 this Act, the Secretary shall publish a proposed finding
9 with respect to the petition for Federal recognition of each

1 eligible tribe consistent with part 83 of title 25, Code of
2 Federal Regulations.

3 (b) TIME PERIOD FOR FINAL DETERMINATION.—

4 Not later than one year after the date of the enactment
5 of this Act, the Secretary shall publish a final determina-
6 tion with respect to the petition for Federal recognition
7 of each eligible tribe.

8 (c) NOTIFICATION; OPT IN.—

9 (1) NOTIFICATION OF TRIBES.—Not later than
10 45 days after the date of the enactment of this Act,
11 the Secretary shall notify, in writing, all potentially
12 eligible tribes that they may opt into the expedited
13 procedure for proposed findings and final determina-
14 tions under this Act and of the provisions of para-
15 graph (2).

16 (2) OPT IN.—If, not later than 90 days after
17 the date of the enactment of this Act, a potentially
18 eligible tribe notifies the Secretary, in writing, that
19 the potentially eligible tribe elects to opt into the ex-
20 pedited procedures under this Act, the potentially el-
21 igible tribe shall be considered an eligible tribe for
22 the purposes of this Act. Potentially eligible tribes
23 shall not be considered eligible tribes for the pur-
24 poses of this Act if notification is not made by the

1 potentially eligible tribe in accordance with this
2 paragraph.

3 (d) NUMBER OF MEMBERS NOT A FACTOR.—The
4 number of persons listed on the membership roll contained
5 in a petition for Federal recognition of an eligible tribe
6 shall not be taken into account in considering the petition,
7 except that the Secretary may review the eligibility of indi-
8 vidual members or groups listed in a petition in accord-
9 ance with the provisions of part 83 of title 25, Code of
10 Federal Regulations.

11 (e) EFFECT OF FAILURE TO COMPLY.—If the Sec-
12 retary fails to publish a proposed finding required by sub-
13 section (a) or a final determination required by subsection
14 (b) by the end of the time period required for the proposed
15 finding or final determination by such subsections, the rel-
16 evant eligible tribe may seek in the appropriate United
17 States district court a determination by the court of
18 whether the eligible tribe should be recognized as an In-
19 dian tribe in accordance with the criteria specified in sec-
20 tion 83.7 of title 25, Code of Federal Regulations. In any
21 such action, the court shall treat such failure by the Sec-
22 retary as final agency action.

23 (f) REVIEW OF ADVERSE DECISION.—If the final de-
24 termination required by subsection (b) refuses to recognize
25 the eligible tribe as an Indian tribe, the eligible tribe may

1 seek, during the one-year period beginning on the date on
2 which the final determination is published, a review of the
3 determination in the appropriate United States district
4 court, notwithstanding the availability of other adminis-
5 trative remedies.

6 (g) CONSIDERATION OF OTHER PETITIONS.—Until
7 the Secretary has published a proposed finding with re-
8 spect to the petition of each eligible tribe as required
9 under subsection (a), no other petition for recognition as
10 an Indian tribe may be processed except those listed as
11 having a status of “Active” or “In Post-Final Decision
12 Appeal Process” by the Department of the Interior on
13 July 1, 2004.

14 (h) NO CHANGE IN CRITERIA.—Nothing in this Act
15 shall be construed to change the criteria established by
16 the Department of the Interior to determine whether or
17 not a petitioner meets the requirements to be a federally
18 recognized tribe.

19 (i) DEFINITIONS.—For the purposes of this Act, the
20 following definitions apply:

21 (1) ELIGIBLE TRIBE.—The term “eligible
22 tribe” means a tribe that—

23 (A) has made an initial application for rec-
24 ognition as an Indian tribe to the Department
25 of the Interior before October 17, 1988;

1 (B) is listed as having a status of “Ready,
2 Waiting for Active Consideration” by the De-
3 partment of the Interior on July 1, 2004; and

4 (C) not later than 90 days after the date
5 of the enactment of this Act, notifies the Sec-
6 retary, in writing, that it opts to have its peti-
7 tion for recognition as an Indian tribe consid-
8 ered under the expedited procedure for pro-
9 posed findings and final determinations under
10 this Act.

11 (2) POTENTIALLY ELIGIBLE TRIBE.—The term
12 “potentially eligible tribe” means a tribe that—

13 (A) has made an initial application for rec-
14 ognition as an Indian tribe to the Department
15 of the Interior before October 17, 1988;

16 (B) is listed as having a status of “Ready,
17 Waiting for Active Consideration” by the De-
18 partment of the Interior on July 1, 2004; and

19 (C) has not notified the Secretary, in writ-
20 ing, whether or not it opts to have its petition
21 for recognition as an Indian tribe considered
22 under the expedited procedure for proposed
23 findings and final determinations under this
24 Act.

1 (3) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior, or a designee of the
3 Secretary.

○